IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Second Appeal No.302 Of 2000.

Bhagwan Sahai (deceased) through his LRS. Kalyan Chand
Versus
Mool Chand (deceased) through his LRS Bajran Lal & Ors.

Date Of Order ::: 03.11.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Dr. P.C. Jain, Counsel for defendant-appellant
Mr. Ravindra Kumar Soni son of Kalyan Chand, defendant-appellant present in-person.
Mr. B.L. Agarwal, Counsel for plaintiff-respondents
Mr. Mahendra Kumar, plaintiff-respondent No.3 present in-person.

By the Court :

Heard learned counsel for both the parties.

The plaintiff-respondents filed a suit for eviction in respect of the disputed property in the Lower Court, which was dismissed. However, on an appeal filed by the plaintiff, the learned First Appellate Court came to a conclusion that on the basis of

admitted facts in between both the parties, the property, in dispute was mortgaged by plaintiff with defendant, therefore, decreed the present suit treating it as a suit for redemption of mortgaged property and directed the defendant to hand-over the possession of the disputed property within a period of two months. Being aggrieved with the same the defendant has filed this second appeal.

During the course of arguments, learned counsel for both the parties, with the instructions of their respective clients, agreed to dispose of the present second appeal on the following terms and conditions:-

1. The plaintiff-respondents shall deposit the bank draft of a sum of Rs.60,000/-(Rupees sixty thousand only) drawn in the name of appellant Kalyan Chand in the Lower Court within a period of one month from today towards payment of mortgage amount as well as compensation.

2. The defendant-appellant shall hand-over the vacant and peaceful possession of the disputed property to the plaintiff-respondents within

a period of three months from today.

3. The learned Lower Court is directed to hand-over the bank draft deposited by the plaintiff-respondents to the defendant-appellant after satisfying itself that the possession of the property, in dispute has been handed-over by the appellant to the respondents.

However, it is made clear that in case the defendant-appellant does not give the vacant and peaceful possession of the disputed property to the plaintiff-respondents within a period of three months, as directed above, then it will be open for the plaintiff-respondents to get decree passed by the First Appellate Court in their favour executed and also to initiate contempt proceedings before this Court. It will also be open for the defendant-appellant to recover the amount of a sum of Rs.60,000/-, as directed above, in case the same is not deposited by the plaintiff-respondents on the basis of this order and also to initiate the contempt proceedings before this Court.

With the aforesaid terms, conditions and

directions, the second appeal is disposed of with no order as to costs.

(Narendra Kumar Jain) J.

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